

MINUTES

MONTANA SENATE 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH AND GAME

Call to Order: By **CHAIRMAN MIKE SPRAGUE**, on January 23, 2003 at 3 P.M., in Room 317-A Capitol.

ROLL CALL

Members Present:

Sen. Mike Sprague, Chairman (R)
Sen. Dan McGee, Vice Chairman (R)
Sen. Keith Bales (R)
Sen. Gregory D. Barkus (R)
Sen. Dale Mahlum (R)
Sen. Trudi Schmidt (D)
Sen. Bill Tash (R)
Sen. Joseph (Joe) Tropila (D)

Members Excused: Sen. Ken (Kim) Hansen (D)
Sen. Debbie Shea (D)

Members Absent: None.

Staff Present: Jane M. Hayden, Committee Secretary
Mary Vandembosch, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: Senate Bill 184, January 16, 2003

HEARING ON SENATE BILL 184

Sponsor: SENATOR ED BUTCHER

Proponents: **Mike Balko**, Educator and Great Falls Gun Show Organizer
Gilda Clancy, Montana Women's Shooting Association (MWSA)
Mike Collins, for Himself
Gary Marbut, MSSA & WMFGA
Dennis McCarty, Educator and Gun Dealer
Bill Tiddy, for Himself

Larry Copenhaver, Montana Wildlife Federation
Leo Dutton, Lewis & Clark County Sheriff's Office
Hank Hudson, Department of Public Health and Human
Services (DPHHS)
Cheryl Liedle, Sheriff, Lewis & Clark County
Lonnie Olson, CSED
Amy Pfeifer, DPHHS
Beth Satchry, Montana Coalition Against Domestic
and Sexual Violence
Jim Smith, Montana Sheriffs and Peace Officers
Association
Betty Whiting, Montana Association of Churches

Opening Statement by Sponsor:

SENATOR ED BUTCHER, Senate District 47, testified that Senate Bill 184 is very simple, it really changes nothing in the registration to carry concealed weapons. It simply removes an ongoing fee and reduces the paperwork for sheriffs' departments. The bottom line is that government regulation needs to be at its lowest necessary denominator whenever we produce legislation as long as it protects, and provides the services for which it was intended. Presented from that perspective, Montana has approximately 7,000 issued concealed weapon permits and the current requirement to reapply every five years adds unnecessary bureaucratic oversight to an already overloaded justice system. Since the majority of permit holders are sportsmen, the issue is of great importance to a significant percentage of Montana citizens.

SENATOR BUTCHER explained that a great number of citizen-sportsmen like the comfort of carrying a concealed weapon for protection throughout the year. The concealed weapon permit system is a bridge between the constitutional right for an American citizen to arm himself and the law enforcement obligation to protect society from the statistically insignificant number among us who may present a danger to society. In Montana, literally thousands carry concealed weapons in various forms and they do not bother to get a permit. Senate Bill 184 is really dealing with the people who do it according to the law, do it properly, but sometimes are not aware that their permits have expired.

SENATOR BUTCHER stated that the screening process is very thorough--requiring the local sheriff, who is probably quite knowledgeable of most local people, to review the personal responsibility and individual stability of the applicant.

SENATOR ED BUTCHER urged that as SB 184 is reviewed, it becomes very evident under Section 45-8-321, MCA, who is eligible and what the stipulations are. The sheriff can deny a permit if the applicant: 1) has been convicted of various violent crimes, 2) has an outstanding arrest warrant, 3) has been adjudicated as using unlawful and/or intoxicating substances, 4) is on probation, 5) has been adjudged mentally ill or mentally defective, or 6) has been dishonorably discharged from the armed forces. The local sheriff can have as tight a screening as they feel necessary for the individual and the safety of the community. Most importantly, the permits are revocable under the same terms that they were issued. So there is really no reason to tie up law enforcement time constantly reviewing permits, because any problematic individual can have the permit quickly revoked.

SENATOR BUTCHER expressed that it is so fundamental to our government and our history to be allowed to carry weapons. It is no accident our founding fathers placed the right to bear arms second only to the right of free speech as a critical component of our basic Bill of Rights. The ratification of the U.S. Constitution depended upon passage of these Ten Amendments. They were the overwhelming basis for the people to finally agree to vote into being our Constitution. The writers of the Constitution realized they had left out an important concept of a truly free government: the protection of the people and the protection of the people from a despot. Senate Bill 184 fits into a very fundamental basis and understanding of our system. This bill is simple, it does nothing more than eliminate bureaucratic paperwork. There is an amendment that complies with the federal government's Brady Bill until it sunsets, whereas the sheriffs must run checks every four years on each permit holder in their jurisdiction.

Proponents' Testimony:

EXHIBIT(fis14a01) EXHIBIT(fis14a02) EXHIBIT(fis14a03)

Gary Marbut, President of Montana Shooting Sports Association; and for Western Montana Fish and Game Association; and Member of the Governor's Advisory Counsel on Concealed Weapon Permits. Until 1991, if a person wanted a concealed weapon permit it was only granted by a District Judge, and then half of the counties didn't have application forms. There was only one county where a person could reliably get a concealed weapon permit, and that was Silver Bow County (Butte), and many traveled halfway across Montana to get one there. **Mr. Marbut** stated that he wrote the first bill on this matter in 1989, and got it passed in 1991. **Mr. Marbut** expressed that it is a good law and has compared it at length to other states. The law is

a good balance between the right of the citizens to be able to provide for their personal protection and the security necessary for proper law enforcement.

Gary Marbut testified that in 1997, a law was passed that says if you have a concealed weapon permit, you have had your background checked for a "Brady Bill" gun buy. But there was a problem--the Federal Bureau of Tobacco, Alcohol, and Firearms required that a permit be current within five years in order to honor the "Brady buys". To comply with the Federal mandate, **SENATOR BUTCHER** is offering an amendment that says if we go to a lifetime permit, the sheriffs must do an electronic check by the National Crime Information Center (NCIC - referred to as NICS) every four years to make certain these permits remain current by assuring that the applicant is still eligible.

Mr. Marbut stated that **SENATOR BUTCHER** is offering a second amendment in concurrence with the Fish, Wildlife, and Parks Commission (FWP) to repeal the section that allows hunter education to be a training venue for concealed weapon permits. The amendment would leave the door open to create classes specifically for handgun training to acquire a concealed weapon permit.

Mr. Marbut related that there might be an issue with the increased cost of the "lifetime permit" to \$50. In 1991, the cost was \$25 every four years to cover a background check that was mostly paperwork. The \$25 reimbursed the sheriffs' time and effort. Now the sheriffs use the free electronic NCIC checks, so the increase of \$25 should more than compensate for the revenue generated from the lifetime permit versus the revenue generated from the every-four-years background check.

Gilda Clancy, Montana Women's Shooting Association, testified their members have completed safety and self-protection classes and are eligible for their concealed weapon permits. Their Association's issues are the same as those stated by Gary Marbut, and they urge a do pass on SB 184.

Bill Tiddy, expressed that SB 184 would be a deterrent to domestic terrorism. Mr. Tiddy also stated that the modifications are simple and would eliminate the added paperwork for the sheriffs.

Mike Balko, Educator and Great Falls Gun Show Organizer, testified that if the NCIC computer program goes down, especially over a weekend, it could mean a huge financial loss to him and the gun show he organizes. The NCIC check is not as thorough as

a concealed-carry check, so the concealed weapon permit is enough for a purchase of a weapon at the gun show even without the NCIC check.

Dennis McCarty, Retired Educator; Vice President of the Weapons Collectors Society of Montana; and part-time Gun Dealer, testified in favor of SB 184 as amended. If a person has a concealed weapon permit and proper identification, there is no question that they can legally purchase a gun. However, we need the bill passed--as amended--in order to comply with the Federal regulations, to be enable us to continue our businesses.

Opponents' Testimony:

Jim Smith, Montana Sheriffs and Peace Officers Association, testified that his Association has been working with Gary Marbut since 1991. The Association has not been in on any discussions about SB 184 prior to this hearing. Mr. Smith believes the holders of concealed weapon permits are, by and large, law abiding. What the sheriffs are concerned about is a blanket lifetime issuance, not over costs or the reliability of the NCIC computers, but their concern is about the ability of the sheriff to evaluate the person applying for a permit. Mr. Smith said Section 45-8-321, subsection 2, which **SENATOR BUTCHER** read to the Committee, is very important to the sheriffs and peace officers. What this Section preserves and keeps in place out in the real world in the counties is the discretion and judgment left to the sheriff who has to issue these permits. The sheriffs would appreciate the opportunity to see the permit holder again every four years. People change, and there is nothing more important to the sheriffs than being physically present with the person who wants to renew their permit. Talking to a permit holder person-to-person gives a peace officer a gut sense of the stability of the concealed weapon carrier they could not get from a computer report.

{Tape: 1; Side: B}

Cheryl Liedle, Sheriff, Lewis and Clark County, testified that her objection to SB 184 was not a money issue, but an issue of her responsibility as a sheriff and an elected official to know these people. In the past 12 months, her county has issued approximately 100 concealed weapon permits and out of those, five have been revoked. They were revoked because of felonies committed or ongoing investigations. Some of these were caught at the renewal point or when the NCIC check was done.

Sheriff Liedle believes it is our right as citizens to have weapons, and it makes law enforcement easier knowing good

citizens are armed. It is a constructive experience issuing the concealed weapon permits, and supports renewing them every four years to keep the positive contact with the public.

Betty Whiting, Montana Association of Churches, urged the tabling of SB 184. The Association seeks solutions to violence on many fronts, including legal protection from hate groups, community support of victims of violence, and moderate and reasoned regulation of firearms. The main question to be answered is whether a lifetime permit is a reasonable request. The Association recognizes that Montanans are accustomed to the use of guns for hunting, predator control, and marksmanship activities. But a person does not need a concealed weapon permit to engage in these activities. Senate Bill 184 does not take into account that people are prone, over a lifetime, to problems such as alcoholism, depression, blindness, strokes, and brain injury. People with these problems would likely be incapable physically or mentally to reapply in four years and their permits would automatically lapse. With a lifetime permit, it might take law enforcement days or weeks to investigate circumstances which arise to revoke the permit. Finally, there are a lot of research reports suggesting that those who carry concealed weapons create a safer society. However, the Violence Prevention Center reported that over 2,000 permit holders were arrested for gun violence between 1996 and 1999.

Beth Satchry, Montana Coalition Against Domestic and Sexual Violence, supported the comments of the other opponents. The Coalition is very concerned about the violence in our society, and support a regular review of permit holders as a smart thing. Face-to-face interviews are the best way to indicate whether or not the permit holders are able and safe with their weapons. The Coalition urged a do not pass recommendation.

Informational Testimony:

EXHIBIT (fis14a04)

Chris Smith, Chief of Staff for the Fish, Wildlife, and Parks Commission, stated SB 184--as amended--would be a step in the right direction, as it would replace the hunter education course with a handgun safety course. FWP does not have a course in place for concealed weapon safety, so the Commission urged another amendment that would take them out of the process completely.

Questions from Committee Members and Responses:

SENATOR GREG BARKUS asked **SENATOR ED BUTCHER** why is re-permitting a driver's license different than re-permitting a concealed weapon. **SENATOR BUTCHER** answered that a driver's license is partly revenue and partly an eye test that examines physical issues of being able to run a motor vehicle. The concealed weapon permit is simply a renewal for the guns, there is no checking of the ability to handle firearms. **SENATOR BARKUS** asked about the record keeping required as to who would cover the cost. **SENATOR BUTCHER** answered that a member of the sheriff's staff runs the NCIC test and the one-time payment of \$50 should easily cover the cost.

SENATOR KEITH BALES asked **SENATOR BUTCHER** if law enforcement is deprived of the four-year renewal option, how will they know the status of the permit holder--whether they are alive, where they live, etc. **SENATOR BUTCHER** responded that the sheriff who issued the original permit will run a NCIC check, and if there is a problem, the revocation would go into the Criminal Justice Information System (CJIS) to notify law enforcement agencies. There is probably a bigger problem with people who do not bother to renew and people who do not bother to get a permit in the first place. Making the permit a one-time thing should encourage people to get the permit because they would only go through the screening process once.

SENATOR JOE TROPILA asked **Sheriff Cheryl Liedle** what were the restrictions for carrying a concealed weapon. **Sheriff Liedle** stated that a person cannot carry a concealed weapon into establishments where alcohol is served, government facilities, schools, and many other places--the regulations are strict.

SENATOR TROPILA asked **SENATOR BUTCHER** if the right to bear arms included concealed weapons. **SENATOR BUTCHER** responded that no, it did not. **SENATOR TROPILA** asked **SENATOR BUTCHER** if people carry concealed weapons during hunting season and if they do, are the weapons all exposed. **SENATOR BUTCHER** responded that some are concealed and some are not, but that a sportsman carrying a concealed weapon under his hunting vest is in violation of the law.

SENATOR DAN MCGEE asked **SENATOR BUTCHER** if the amendment instituting a handgun safety course was passed, and FWP does not have such a training program, who would teach the course. **SENATOR BUTCHER** responded that it would be left to the local jurisdictions where the sheriffs could make the requirements as rigid as they would want.

_____ **SENATOR MIKE SPRAGUE** asked **Sheriff Cheryl Liedle**, if a Temporary Restraining Order (TRO) was issued against a permit holder, would that have any effect on the concealed weapon permit. **Sheriff Liedle** said it would not, unless the person was adjudged to have a mental condition, or if the TRO specifically authorized that the permit be revoked. **Sheriff Liedle** further explained that a TRO is a civil procedure and not a criminal indictment.

SENATOR KEITH BALES asked **Sheriff Liedle**, if SB 184 was passed, how would it be enforced. **Sheriff Liedle** responded that it would create a problem for the staff person who issues the permits because there would be an incrementally greater number of NCIC checks to be done in a year. Presently, they issue about 100 per year. **Sheriff Liedle** stated again that most law officers are community oriented and like to see the permit holders face to face.

Closing by Sponsor:

SENATOR ED BUTCHER stated the present law does require a person who moves to notify the sheriff in the original jurisdiction issuing the permit, and SB 184 would not change that rule. Initially, applicants are very well screened and renewals are usually handled by the under-sheriff, not the sheriff. Concealed weapon holders are the biggest deterrent to violence-- every year 2.5 million criminal acts are stopped by caring citizens using firearms. These citizens should be viewed as an auxiliary to general law enforcement.

SENATOR BUTCHER testified that forty-four states issue some type of concealed weapon permit, but twelve of those deny most of the applications. **{Tape: 2; Side: A}** Only California, Iowa, Maryland, Minnesota, New Jersey and New York do not recognize a citizens right to own and carry firearms for their self defense in their state constitutions. In the United States, the violent crime rate has dropped every year since 1991, hitting a 23-year low in 2002. During that same period, 17 states added concealed weapon permit laws, and thirteen eliminated some restrictions. States with concealed weapon laws experience lower violent crime rates without exception. The risk for children dying in car accidents, fires, by drowning, and even bicycle accidents are far greater than a risk of a gun accident. States issuing concealed weapon permits experience a reduction of 2.3 percent in all violent crimes.

SENATOR BUTCHER said the statistics, listed below, illustrate that these permits are not a real "boogie man",

but an actual deterrent to crime. SB 184 would not change any of the overall restrictions, but would simplify the process. In the statutes, the permits are revoked for many reasons, and those would not change.

SENATOR ED BUTCHER read the statistics on revocation of licenses in different states, and they were:

<u>State</u>	<u>Permits Issued</u>	<u># Revoked</u>
Florida	798,000	146
Kentucky	72,000	585
Louisiana	15,000	67
North Carolina	46,000	246
Oklahoma	35,000	108
Wyoming	8,000	20

SENATOR BUTCHER stated the statistics show there are very few "bad apples" in the citizenry who hold these concealed weapon permits and therefore, a lifetime permit makes sense.

ADJOURNMENT

Adjournment: 5 P.M.

SEN. MIKE SPRAGUE, Chairman

JANE HAYDEN, Secretary

MS/JH

EXHIBIT (fis14aad)